IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 759 of 2001 (M/B)

Jogendra Singh
S/o Shri Kishan Singh,
R/o Adarsh Colony,
Rudrapru,
District Udham Singh Nagar …. Petitioner

Versus

1. Executive Officer,
   Nagar Palika Parishad,
   Rudrapur (Udham Singh Nagar)
2. Chairman, Nagar Palika Parishad,
   Rudrapur (Udhamsingh Nagar)
3. State of Uttaranchal
   through its District Magistrate,
   Udham Singh Nagar ……. Respondents

……..

Sri V.D. Bisen, Advocate for the petitioner.
Sri Lalit Sharma, Advocate for respondents 1 and 2.
Sri N.C. Gupta, Standing Counsel for respondent no. 3.

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant, J.

RAJEEV GUPTA, C. J. (Oral)

Sri V.D.Bisen, Advocate for the petitioner.

Sri Lalit Sharma, Advocate for respondents 1 and 2.

Sri N.C.Gupta, Standing Counsel for respondent no. 3.

They are heard.

2. The petitioner has filed writ petition for the following reliefs:

"(i) To issue a writ, order or direction in the nature of mandamus commanding the respondents to decide the representation filed by the petitioner and further to hand over the possession of the plot/shop No. 35. and 36 to the petitioner or return the amount of Rs. 56,400.00 deposited by the petitioner in the year 1989 with interest.

(ii) To issue any other suitable writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

(iii) To award the cost of the writ petition in favour of the petitioner."

3. The matter relates to the allotment of shop nos. 35 and 36 in the proposed “Shopping Complex” at Rudrapur (Udham Singh Nagar). The petitioner’s case is that in response to the letter of allotment of shop nos. 35 and 36, though the petitioner deposited a total sum of Rs. 56,400/- in the year 1989, the respondents have not given the possession of these shops to the petitioner in spite of lapse of a period of more than 16 years.

4. The respondents 1 and 2 in their counter affidavit though have admitted that shop nos. 35 and 36 were allotted to the petitioner and that a total sum of Rs. 56,400/- was deposited by the petitioner in the year 1989, have expressed their inability to handover the possession of these shops to the petitioner as the proposal of the Nagar Palika for the “Shopping Complex” has not been approved by the State Government so far.

5. The learned counsel for the petitioner submits that the petitioner cannot wait for an indefinite period for the possession of the shops allotted to him in the year 1989 and respondents 1 and 2 may be directed to refund the amount deposited by the petitioner in the year 1989 with interest.

6. Sri Lalit Sharma, learned counsel for respondents 1 and 2, in reply, submits that the respondents 1 and 2 have no objection in refunding the amount deposited by the petitioner. The learned counsel, however, submitted that respondents may not be directed to pay interest on the said amount as they have not earned any interest on the said amount.

7. Admittedly, a sum of Rs. 56,400/- was deposited by the petitioner with respondents 1 and 2 way back in the year 1989. True, the respondents 1 and 2 cannot be held liable for not giving the possession of the shops to the petitioner as their scheme for the “Shopping Complex” has not been approved by the State Government. In any

event, the petitioner is entitled to refund of the amount deposited by him with respondents 1 and 2 with some reasonable amount towards interest. In our opinion, a sum of Rs. 10,000/- (Rupees Ten Thousand only) would be reasonable amount as interest on the petitioner's amount lying with respondents 1 and 2 for the last 16 years.

8. We, therefore, direct respondents 1 and 2 to refund the amount of Rs. 56,400/- (Fifty Six Thousand Four Hundred only) deposited by the petitioner and pay a further sum of Rs. 10,000/- (Rupees Ten Thousand only) as interest to the petitioner within a period of two months from the date of production of certified copy of this order before respondents 1 and 2.

9. With the above direction, the writ petition stands disposed of.

(Prafulla C. Pant, J.) **(Rajeev Gupta, C.J.)**
01.05.2006 01.05.2006

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